

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 210813
ORIGIN EA-12

INFO OCT-01 ISO-00 TRSE-00 EB-08 L-03 COME-00 /024 R

DRAFTED BY EA/PHL:CSCHRISTIAN:MLB
APPROVED BY EA/PHL:JCMONJO
-----054601 190534Z /14
P 182123Z AUG 78
FM SECSTATE WASHDC
TO AMEMBASSY MANILA PRIORITY

LIMITED OFFICIAL USE STATE 210813

E.O. 11652: N/A

TAGS: EFIN, RP

SUBJECT: PHILIPPINE TAX ON CAPITAL GAINS

REF: STATE 207458

1. DEPARTMENT HAS RECEIVED SECOND INQUIRY FROM WASHINGTON ATTORNEY INTO POSSIBLE EFFECTS OF DECREE ADOPTED JUNE 11, 1978, REGARDING TAXATION TO WHICH AMERICANS MIGHT BE SUBJECTED UPON TRANSFER OF STOCK IN PHILIPPINE CORPORATIONS. CALL TODAY CAME FROM BOB SCHNABEL OF MERCIER, SANDERS, BAKER, AND SCHNABEL WHO SAID HE HAD BEEN GIVEN TEXT OF P.D. 1457 AND ITS INTERPRETATION BY GENERAL COUNSEL OF A PHILIPPINE CORPORATION, THE STOCK OF WHICH IS TRADED ON U.S. EXCHANGES. SCHNABEL REPORTED HIS SOURCE SAID THE DECREE, ADOPTED JUNE 11 BUT ONLY RELEASED TO THE PUBLIC LAST WEEK, WOULD MAKE NON-FILIPINOS SUBJECT TO PHILIPPINE INCOME TAX IF THEY RECEIVE CAPITAL GAINS FROM PHILIPPINE CORPORATIONS.

2. SCHNABEL'S SOURCE HAS PROVIDED THIS TEXT: P.D. 1457 IS TO AMEND PARAGRAPH E SECTION 37 OF THE PHILIPPINE INTERNAL
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 210813

REVENUE CODE AS FOLLOWS: "GAINS, PROFITS, AND INCOME DERIVED FROM THE PURCHASE OF PERSONAL PROPERTY WITHIN AND ITS SALE WITHOUT THE PHILIPPINES OR FROM THE PURCHASE OF PERSONAL PROPERTY WITHOUT AND ITS SALE WITHIN THE PHILIP-

PINES, SHALL BE TREATED AS DERIVED ENTIRELY FROM SOURCES WITHIN THE COUNTRY IN WHICH SOLD: PROVIDED, HOWEVER, THAT

GAIN FROM THE SALE OF SHARES OF STOCK IN A DOMESTIC COMPANY SHALL BE TREATED AS DERIVED ENTIRELY FROM SOURCES WITHIN THE PHILIPPINES REGARDLESS OF WHERE SAID SHARES ARE SOLD. THE TRANSFER BY A NON-RESIDENT ALIEN OR A FOREIGN CORPORATION TO ANYONE OF ANY SHARE OF STOCK ISSUED BY A DOMESTIC CORPORATION SHALL NOT BE EFFECTED OR MADE IN ITS BOOKS UNLESS (1) THE TRANSFEROR HAS FILED WITH THE COMMISSIONER A BOND CONDITIONED UPON THE FUTURE PAYMENT BY HIM OF ANY INCOME TAX THAT MAY BE DUE ON THE GAINS DERIVED FROM SUCH TRANSFER OR (2) THE COMMISSIONER HAS CERTIFIED THAT THE TAXES, IF ANY, IMPOSED ON THIS TITLE AND DUE ON THE GAIN REALIZED FROM SUCH SALE OR TRANSFER HAVE BEEN PAID. IT SHALL BE THE DUTY OF THE TRANSFEROR AND THE CORPORATION, THE SHARES OF WHICH ARE SOLD OR TRANSFERRED, TO ADVISE THE TRANSFEREE OF THIS REQUIREMENT."

3. DEPARTMENT WOULD GREATLY APPRECIATE EMBASSY EVALUATION ON WHETHER THIS DECREE DOES EXIST IN THIS FORM, IF IT IS NOW IN EFFECT, ITS POSSIBLE EFFECT ON AMERICAN CITIZEN INVESTORS IN PHILIPPINE CORPORATIONS, AND WHAT, IF ANY, ACTION DEPARTMENT SHOULD TAKE VIS-A-VIS INFORMATION TO PRIVATE INQUIRIES AND INTERCESSION WITH GOP. VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAXES, STOCKS (SECURITIES)
Control Number: n/a
Copy: SINGLE
Draft Date: 18 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE210813
Document Source: CORE
Document Unique ID: 00
Drafter: CSCHRISTIAN:MLB
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780339-0712
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780847/aaaabmto.tel
Line Count: 84
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: ae4ce360-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 207458
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1689781
Secure: OPEN
Status: NATIVE
Subject: PHILIPPINE TAX ON CAPITAL GAINS
TAGS: EFIN, RP
To: MANILA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/ae4ce360-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014